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11 Attorneys for Plaintiff

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

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UNITED STATES OF AMERICA,)	No. CR 05-00452 WDB SBA
Plaintiff,)	[PROPOSED] ORDER AND
v.)	STIPULATION EXCLUDING TIME
GREGORY P. MOELLER,)	FROM SEPTEMBER 9, 2005 TO
Defendant.)	OCTOBER 18, 2005 FROM THE SPEEDY
		TRIAL ACT CALCULATION
		(18 U.S.C. § 3161(h)(8)(A))
		OAKLAND VENUE

The parties appeared before the Court on August 12, 2005 for defendant's initial appearance and arraignment, with the intent that defendant would plead guilty that day to one count of a violation of 18 U.S.C. Section 1018 ("Section 1018"). The Court rejected the parties' plea agreement and put the matter off calender indefinitely, to allow the parties to resolve whether the defendant, in fact, falls within the category of persons who may be liable under Section 1018. The parties are still discussing resolution, and now request the Court to set the matter on calender for status on October 18, 2005.

[PROPOSED] ORDER AND STIPULATION EXCLUDING TIME FROM SEPTEMBER 9, 2005 TO OCTOBER 18, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))
No.CR 05-00452 WDB

1 With the agreement of the parties, and with the consent of the defendant, the Court enters this
2 order (1) scheduling a hearing for status on October 18, 2005 at 10:00 a.m., before the Honorable
3 Wayne D. Brazil, and (2) documenting the exclusion of time under the Speedy Trial Act, 18
4 U.S.C. Section 3161(h)(8)(A), from September 9, 2005 to October 18, 2005. The parties agree,
5 and the Court finds and holds, as follows:

6 1. Counsel for the defense has advised the defendant of defendant's right to trial within
7 seventy days of his initial appearance under Title 18 U.S.C. Section 3161 ("Speedy Trial Act").

8 2. Counsel for the defense believes that setting the matter on calendar for status on
9 October 18, 2005, with an exclusion of time from September 9, 2005 to October 18, 2005, is in
10 his client's best interest. The parties are investigating whether the matter may be resolved by
11 misdemeanor plea under Section 1018, as opposed to a felony under Title 18 U.S.C. Section
12 1001, as initially charged by the Government. The parties expect to resolve the matter sometime
13 in the near future.

14 3. The defendant agrees to the exclusion under the Speedy Trial Act, based on the
15 parties' written stipulation and proposed order, and without the parties' appearance in court.
16 Defendant wishes to avoid incurring the cost of having defense counsel make a court appearance,
17 which would be financially burdensome to the defendant.

18 4. Failure to grant the requested continuance would unreasonably deny both government
19 and defense counsel reasonable time necessary for effective preparation, taking into account the
20 exercise of due diligence, and would deny the defendant and the government continuity of
21 counsel.

22 5. Given these circumstances, the Court finds that the ends of justice served by excluding
23 the period from September 9, 2005 to October 18, 2005, outweigh the best interest of the public
24 and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

25 6. Accordingly, and with the consent of the defendant, the Court orders that the period
26 from September 9, 2005 to October 18, 2005 be excluded from Speedy Trial Act calculations
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28 [PROPOSED] ORDER AND STIPULATION EXCLUDING TIME FROM SEPTEMBER 9,
2005 TO OCTOBER 18, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C.
§ 3161(h)(8)(A))
No.CR 05-00452 WDB

1 under 18 U.S.C. Section 3161(h)(8)(A) & (B)(iv).

2 7. The Court schedules a hearing for status on October 18, 2005, at 10:00 a.m., before
3 the Honorable Wayne D. Brazil.

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5 IT IS SO STIPULATED.

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7 DATED: _____

GREGORY P. MOELLER
Defendant

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10 DATED: 9/9/05


CANDICE K. JAN
Special Assistant United States Attorney

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12 DATED: _____

BRADY McCLEOD
Attorney for GREGORY P. MOELLER

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14 IT IS SO ORDERED.

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16 DATED: _____

HON. WAYNE D. BRAZIL
United States Magistrate Judge

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28 [PROPOSED] ORDER AND STIPULATION EXCLUDING TIME FROM SEPTEMBER 9,
2005 TO OCTOBER 18, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C.
§ 3161(h)(8)(A))

No.CR 05-00452 WDB

1 under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).
2 The Court schedules a hearing for status on October 18, 2005, at 10:00 a.m., before
3 the Honorable Wayne D. Brazil.

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5 **IT IS SO STIPULATED.**

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7 **DATED: 8 SEPT. 2005**


GREGORY P. MOELLER
Defendant

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10 **DATED: _____**

CANDICE K. TAN
Special Assistant United States Attorney

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13 **DATED: _____**

MEADY MCLEOD
Attorney for GREGORY P. MOELLER

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15 **IT IS SO ORDERED.**

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17 **DATED: _____**

HON. WAYNE D. BRAZIL
United States Magistrate Judge

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30 **[PROPOSED] ORDER AND STIPULATION EXCLUDING TIME FROM SEPTEMBER 9, 2005 TO OCTOBER 18, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))**
No. CR 05-00452 WDB

1 under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

2 The Court schedules a hearing for status on October 18, 2005, at 10:00 a.m., before
3 the Honorable Wayne D. Brazil.

4
5 IT IS SO STIPULATED.

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7 DATED: _____

8 GREGORY P. MOELLER
9 Defendant

10

11 DATED: _____

12 CANDICE K. YAN
13 Special Assistant United States Attorney

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15 DATED: 9-8-05

16 BRADY MCLEOD
17 Attorney for GREGORY P. MOELLER

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19 IT IS SO ORDERED.

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21 DATED: September 12, 2005

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28 [PROPOSED] ORDER AND STIPULATION EXCLUDING TIME FROM SEPTEMBER 9,
2005 TO OCTOBER 18, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C.
§ 3161(h)(8)(A))
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